

1 RODGER R. COLE (CSB No. 178865)  
[rcole@fenwick.com](mailto:rcole@fenwick.com)

2 JOSEPH S. BELICHICK (CSB No. 229371)  
[jbelichick@fenwick.com](mailto:jbelichick@fenwick.com)

3 FENWICK & WEST LLP  
4 Silicon Valley Center  
5 801 California Street  
6 Mountain View, CA 94041  
7 Telephone: (650) 988-8500  
8 Facsimile: (650) 938-5200

9 DAVID L. HAYES (CSB No. 122894)

10 [dhayes@fenwick.com](mailto:dhayes@fenwick.com)

11 ILANA S. RUBEL (CSB No. 221517)

12 [irubel@fenwick.com](mailto:irubel@fenwick.com)

13 JENNIFER J. JOHNSON (CSB No. 252897)  
14 [jjjohnson@fenwick.com](mailto:jjjohnson@fenwick.com)

15 FENWICK & WEST LLP  
16 555 California Street - 12th Floor  
17 San Francisco, CA 94104  
18 Telephone: (415) 875-2300  
19 Facsimile: (415) 281-1350

20 Attorneys for Plaintiff  
21 ACTUATE CORPORATION

22 UNITED STATES DISTRICT COURT  
23 NORTHERN DISTRICT OF CALIFORNIA  
24 SAN FRANCISCO DIVISION

25 ACTUATE CORPORATION,  
26 a Delaware corporation

27 Plaintiff,

28 v.

INTERNATIONAL BUSINESS MACHINES  
CORPORATION, a Delaware corporation,  
MRO SOFTWARE, INC., a Massachusetts  
corporation,

Defendants.

MICHAEL J. SHEPARD (CSB No. 91281)  
[mjshepard@hhlaw.com](mailto:mjshepard@hhlaw.com)

MICHAEL L. CHARLSON (CSB No. 122125)  
[mlcharlson@hhlaw.com](mailto:mlcharlson@hhlaw.com)

MAREN J. CLOUSE (CSB No. 228726)  
[mjclouse@hhlaw.com](mailto:mjclouse@hhlaw.com)

KRISTI ELDER (CSB No. 231996)  
[kelder@hhlaw.com](mailto:kelder@hhlaw.com)

HOGAN & HARTSON LLP  
4 Embarcadero Center, 22nd Floor  
San Francisco, California 94111  
Telephone: (415) 374-2300  
Facsimile: (415) 374-2499

Attorneys for Defendants  
INTERNATIONAL BUSINESS MACHINES  
CORPORATION and MRO SOFTWARE, INC.

Case No. CV 09 5892 JCS

**PARTIES' STIPULATION AND  
[PROPOSED] ORDER SELECTING  
ADR PROCESS**

Counsel have conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5: The parties agree to participate in mediation, and are discussing Court-appointed and private processes as well as scheduling issues. As the case progresses, the parties may also consider alternatives to mediation. The parties will address the timing of such mediation at the Case Management Conference currently scheduled in this matter for April 2, 2010.

Dated: March 12, 2010

FENWICK & WEST LLP

By: /S/ Ilana S. Rubel  
Ilana S. Rubel

Attorneys for Plaintiff  
ACTUATE CORPORATION

Dated: March 12, 2010

HOGAN & HARTSON LLP

By: /S/ Michael J. Shepard  
Michael J. Shepard

Attorneys for Defendants  
IBM CORPORATION and MRO SOFTWARE,  
INC.

#### **ATTESTATION PURSUANT TO GENERAL ORDER 45**

I, Ilana Rubel, attest that concurrence in the filing of this document has been obtained from any signatories indicated by a “conformed” signature (/S/) within this e-filed document.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 12<sup>th</sup> day of March, 2010 at San Francisco, California.

FENWICK & WEST LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO

Dated: March 12, 2010

FENWICK & WEST LLP

By /S/ Ilana S. Rubel

Ilana S. Rubel


FENWICK & WEST LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO

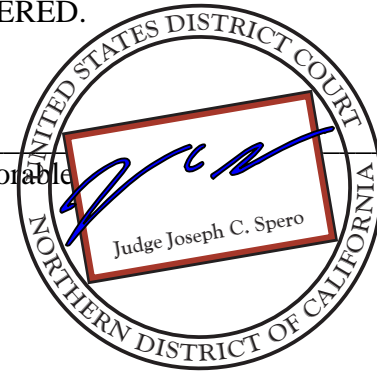
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**[PROPOSED ORDER]**

Pursuant to the above Stipulation, IT IS SO ORDERED.

Dated: 03/15/2010

Honorable   
Judge Joseph C. Spero



FENWICK & WEST LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO